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SUBJ: KAZAKHSTAN: DRAFT AMENDMENTS TO MEDIA LAW RAISE
CONCERNS

Ref: A) Almaty 485, B) Almaty 1750

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1. (SBU) Summary. Political parties and media defense organizations in Kazakhstan have mounted a public campaign opposing amendments to Kazakhstan's media law introduced to the parliament on May 30 by Information Minister Yermukhamet Yertysbayev. The draft amendments leave open some legal loopholes to be exploited by opposition media and impose other measures that could shut down defiant outlets. The controversy highlights a public feud between the minister, considered to be carrying out the president's orders, and the president's eldest daughter and parliamentarian, Dariga Nazarbayeva. Nazarbayeva has led the Congress of Journalists in preparing their own revised draft media law, to be presented to parliament June 14. Neither the proposed amendments nor the draft law include the anti-monopoly clauses or simplified registration procedures desired by Kazakhstan's media defense advocates. End summary.

2. (U) Following through on plans announced in April to enforce Kazakhstan's "informational security," Information Minister Yermukhamet Yertysbayev on May 30 submitted a package of amendments to the Mazhilis, Kazakhstan's lower house of parliament. The most controversial amendments would ban anyone who had previously lost a libel judgment from being a director of any other medium; allow media organizations to be closed down for technical violations; require a government license for printing houses; and require papers to publish every three months. Media would have to re-register upon any changes in editor, address, or frequency of publishing or broadcasting. The amendments would also impose a deposit of 5,000 monthly calculated indices as indemnity against potential libel judgments. (Note: Each MCI is 1,030 tenge; at the current rate of exchange, 5,000 MCIs is about \$39,000.)

3. (SBU) In a meeting May 19 with Helsinki Commission Deputy Chief of Staff Dorothy Taft, Yertysbayev said the amendments were intended to improve the quality of journalism and ensure that only regularly publishing media would be registered. He said that of the 6,646 currently registered papers, only 2,438 publish, because under the current law papers only have to publish once every six

months. He said the irregularly publishing newspapers were opposition papers that were issued during the 2004 parliamentary and 2005 presidential elections to "slander and offend the president." He said he wanted to change the law so the papers publish responsibly and continually, "like real newspapers."

Rift in Government Solidarity?

¶4. (U) Politically diverse parties and media organizations have come together to publicly condemn the proposed amendments and urge the parliament to reject them. An appeal signed by a dozen media groups and disseminated at a press conference June 5 described the amendments as "a step backward toward stagnation and totalitarianism" that could "kill freedom of speech in Kazakhstan" and "disgrace Kazakhstan in the eyes of the world." The signatories included the pro-government Union of Journalists, the Congress of Journalists headed by Asar party leader Dariga Nazarbayeva, and the media defense organization Adil Syoz (The Just Word.) The opposition party Ak Zhol, pro-government Asar, and the unregistered opposition party Alga released their own statement June 6 calling the amendments "one more bludgeon" to be used against independent and opposition media.

¶5. (U) The 35 to 25 vote in parliament accepting the amendments for consideration likewise reflected divergent views. Showing either chutzpah or a wry sense of humor, Yertysbayev had asked the parliament to "take pity" and pass the amendments without discussion by June 24, because the information ministry had had to evacuate their offices after a fire damaged their building. However, Nazarbayeva, Asar party member Sergey Kiselyev, and Otan party members Dariya Klebanova and Amanageldy Taspikhov insisted on

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sending the amendments back to the government for revisions. Addressing the parliament June 7, Nazarbayeva said accepting the draft law for consideration would sign "a death warrant for freedom of speech" in Kazakhstan. The official news agency Kazakhstan Today reported that a working group headed by Otan party member Gadilbek Shalakhmetov would prepare comments on the draft amendments by October 20 this year.

The Long and Winding Road to a Revised Media Law

¶6. (U) The Congress of Journalists, the Information Ministry, and the media defense group Adil Syoz have spent several years trying to reach a consensus on a revised media law. In April 2004, a draft was so widely criticized that President Nazarbayev vetoed it, after the Constitutional Council declared it unconstitutional. Altynbek Sarsenbauly, the Information Minister at the time, then prepared a draft that set limits on libel claims, abolished criminal libel prosecutions of journalists, and included significant anti-monopoly provisions. Dariga Nazarbayeva's Congress of Journalists submitted a version to the Information Ministry for review in October 2005. Their draft proposed a one-year statute of limitations for libel suits and a 5% cap on damage claims, but lacked anti-monopoly clauses. (Note: Media report that Nazarbayeva will submit a draft law to parliament on June 14, but it is unclear whether the draft has been changed since October of last year.)

¶7. (SBU) Adil Syoz protested publicly in November 2005 that their suggested additions to the Congress of Journalists' draft law were ignored, including a ban on media monopolies. Adil Syoz had also proposed that media should only have to inform the information ministry to become registered, and if confirmation were not received within 30 days, they should be able to begin publishing. The ministry

would thus have to respond promptly to new registration requests and would be unable to ignore - or prevent - the establishment of new outlets. Another omission concerned the requirement for immobile, proprietary TV and radio broadcast towers that can only be installed by the state Kazteleradio corporation. Adil Syoz had asked that simpler modular towers be allowed, to avoid mandatory installation by Kazteleradio. In his conversation with Taft, Yertysbayev said both the Adil Syoz and Congress of Journalist draft media laws were good, but he said he was a pragmatist and a realist and knew which one parliament would ultimately approve.

Yertysbayev Sets the Free Speech Bar a Little Bit Higher

¶8. (SBU) Comment: Yertysbayev insists that he wants to defend freedom of speech and the rights of journalists to publish. It is, however, his own definition of "journalism" that he is defending when he draws a distinction between "truthful and objective information" and "slandering the head of state" (Ref A). Some of the amendments, if passed, would be used to silence media that dared to criticize those in power. Requiring newspapers to publish every three months rather than every six will have no appreciable affect. Newspapers like Respublika (aka Assandi Times) and Zhuma Times (aka DATA Nedeli, SoldAT, etc.) have managed to keep publishing by registering names of future newspapers to replace those that were shut down in libel suits. However, the \$39,000 deposit against potential libel judgments is a very serious hurdle that lower budget opposition newspapers would not be able to clear. Such smaller, independent newspapers would be the most likely to be found guilty of "insulting the dignity and honor of the president" and would lose their deposit. Another amendment would prohibit their editors from publishing again.

¶9. (SBU) Comment, continued: Nazarbayeva has fueled the firestorm over the proposed amendments, most likely to generate public sympathy for the battle ahead when Yertysbayev tries to turn official Khabar TV, in which supposedly she has a large investment, into Kazakhstan's

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first public television station (Ref B). Her outrage over Yertysbayev's amendments obscures the fact that the Congress of Journalists' draft law also leaves out key provisions on simplified registration and anti-monopoly clauses that media rights groups insist upon. Yertysbayev told Taft that Kazakhstan's media have improved greatly compared to Uzbekistan or those from Kazakhstan's days as a Soviet republic. With such a low standard of comparison, Kazakhstan is likely to progress slowly toward a more democratic ideal of media independence.

Asquino